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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,480	09/08/2003	Robert A. Kovach	8190	9008

7590 09/09/2004

Kenneth L. Mitchell
(Woodling, Krost and Rust)
9213 Chillicothe Road
Kirtland, OH 44094

EXAMINER	
NGUYEN, SON T	
ART UNIT	**PAPER NUMBER**
3643	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/657,480	KOVACH, ROBERT A.
	Examiner	Art Unit
	Son T. Nguyen	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/8/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 27** is rejected under 35 U.S.C. 102(b) as being anticipated by US 4825586 (herein 586). 586 discloses a method for securing a tree in a stand 10,18 having a circumferential support member 18, said support member includes interior threads 24,22 therein for engaging a plurality of screws 30, comprising the steps of placing a tree in the stand; positioning at least two tree grips 35,33 having bores 31 therein into engagement with screws residing in and through said support member; and rotating said screws compressing said grips into the tree.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1-26,28,29** are rejected under 35 U.S.C. 103(a) as being unpatentable over 586 (as above) in view of EP 1364604A1 (herein 604).

For claims 1 & 20, 586 discloses a plurality of tree grip 35 having a longitudinal axis and a transverse axis in combination with a tree stand 10,18, each of the grips

comprising a first surface (surface of any ref. 35), a second surface 35,33 (as shown in fig. 2) oriented and facing oppositely to that of the first surface; the second surface includes a bore 31 therein, the tree stands comprising a circumferential support 18 and a plurality of threaded members 30 oriented radially inwardly with respect to the circumferential support; each said threaded members 30 engage the bore as shown in fig. 2. However, 586 is silent about a plurality of serrations, the bore being offset, and female threads in the circumferential support for interengaging with the threaded members. Although in col. 2, lines 50-65 of 586 states that the holes 24 are to be smooth so that the screws 30 can freely rotate, it would have been an obvious substitution of functional equivalent to substitute the smooth holes of 586 with female threads for interengaging with the threaded members, since both engagement method would perform the same function to grip the tree so the tree can be erected vertically. Note, in the column pointed out, 586 states that although the holes are smooth to allow free rotation of the screws, the method still maintain a tight connection to support the tree. Furthermore, male and female threadings are notoriously well known in the connection art, therefore, even if one was to modified 586's smooth holes with threaded holes, it would not alter 586's invention for it still perform the same function.

604 teaches a tree grip 3.3 in combination with a tree stand 1, the grip having a plurality of serrations (see fig 1), and the connection area (similar to the bore area of 586) between the screw 3.1 and the grip 3.3 being offset. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a plurality of serrations as taught by 604 on the grip of 586 in order to further grasp or grip

the tree for support. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to offset the connection area (or bore) as taught by 604 in the grip of 586 in order to limit movement of the tree trunk by gripping with force on the upper area of the trunk for more support on the trunk. For example, if the screw was not offset to the upper area of the grip, most of the force applied for gripping will be concentrated in the lower portion of the trunk. At this lower portion/area, the trunk is more unstable than the other area higher, thus, it would be more beneficial to grip the upper trunk area for a more stable erection of the tree.

For claims 2-19,21-25, 586 as modified by 604 (emphasis on 604) teaches serrations as shown in fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ various serration shapes and pattern for the grip 3.3 of 586 as modified by 604 (emphasis on 604), depending on the user's preference to choose which pattern because serrations can be in various pattern depending on the user's choice for the intended function.

For claim 26, same as explained in claims 1 & 25, replacing serrations with protrusions

For claims 28 & 29, see the above claims 1-26.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a

general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.

Son T. Nguyen
Primary Examiner, GAU 3643
September 7, 2004